



International Right of Way Association Weekly Update

Monday, March 27, 2017

Trump Administration

- The State Department issued a necessary permit for the Keystone XL pipeline to move forward on Friday. In announcing the decision, President Trump called the Keystone XL pipeline “the first of many infrastructure projects.” The only approval needed for the pipeline to begin construction is a Nebraska Public Service Commission permit (<https://www.washingtonpost.com/news/energy-environment/wp/2017/03/24/trump-administration-grants-approval-for-keystone-xl-pipeline/>).

Congress

- Republican leaders of the House of Representatives pulled the American Health Care Act (“AHCA”) from the Floor on Friday once it became clear the bill did not have the votes to pass. The AHCA would have repealed and replaced the Patient Protection and Affordable Care Act, commonly known as Obamacare (<http://www.cnn.com/2017/03/24/politics/house-health-care-vote/>).
- Supreme Court Nominee Judge Neil Gorsuch began confirmation hearings before the Senate Judiciary Committee. Senate Minority Leader Schumer stated that Democrats will filibuster Judge Gorsuch’s nomination (https://www.washingtonpost.com/powerpost/gorsuch-confirmation-hearing-to-focus-today-on-testimony-from-friends-foes/2017/03/23/14d21116-0fc7-11e7-9d5a-a83e627dc120_story.html).

Analysis

- The Keystone XL decision may seem like the most relevant piece of infrastructure news this week, but the failure of House Republicans and President Trump to generate enough support to pass the AHCA and Minority Leader Schumer’s threat to filibuster Judge Gorsuch’s nomination indicate how complicated the politics will be to get anything done, including negotiating and passing a federal infrastructure package.
- Minority Leader Schumer’s filibuster threat may be disappointing to some Republicans, but should not be a surprise given his role as the Democratic leader of the Senate. In other words, even though a filibuster on a Supreme Court nominee—who is more moderate than many would have guessed the President’s nominee would be—may

seem extreme, the politics on this are not surprising given the hardline stance Republicans took regarding President Obama's nomination of Judge Garland in 2016 (<https://fivethirtyeight.com/features/for-a-trump-nominee-neil-gorsuchs-record-is-surprisingly-moderate-on-immigration/>). It is important to remember that Senate Republicans only have a slim majority and will need eight Democrat votes to conduct most business. In that sense, Minority Leader Schumer is key to much of the Republican agenda.

- The political fallout of the AHCA failure will be much more interesting and difficult to predict, however. Right now there is intra-party fighting within the House Republican caucus, in-fighting within the Freedom Caucus (the conservative, often libertarian wing of the House Republican caucus), and significant tension between Speaker Ryan and President Trump (<http://www.politico.com/story/2017/03/obamacare-bill-votes-white-house-236475>). The Republicans control the Administration, the House, and the Senate, but that does not mean that all Republicans are in lock-step, or even marching from the same playbook.
- President Trump said that the next item on the agenda will be tax reform, now that the AHCA failed (<http://www.businessinsider.com/r-rpt-wall-st-week-ahead-bull-market-not-dead-as-tax-reform-takes-spotlight-2017-3>). This is the item of highest importance to congressional Republicans and will set the stage for everything they, and President Trump, hope to accomplish over the next couple of years. If Republicans can overcome the political fallout of AHCA failure and navigate a Democrat filibuster of Judge Gorsuch's nomination and still progress tax reform, then there may be hope that an infrastructure package could move later this year.